

Federal Acquisition Regulation

22.401

22.303 Administration and enforcement.

The procedures and reports required for construction contracts in subpart 22.4 also apply to investigations of alleged violations of the Act on other than construction contracts.

22.304 Variations, tolerances, and exemptions.

(a) The Secretary of Labor under 40 U.S.C. 3706, upon the Secretary's initiative or at the request of any Federal agency, may provide reasonable limitations and allow variations, tolerances, and exemptions to and from any or all provisions of the Act (see 29 CFR 5.15).

(b) The Secretary of Labor may make variations, tolerances, and exemptions from the regulatory requirements of applicable parts of 29 CFR when the Secretary finds that such action is necessary and proper in the public interest or to prevent injustice and undue hardship (see 29 CFR 5.14).

[51 FR 12293, Apr. 9, 1986, as amended at 70 FR 57454, Sept. 30, 2005]

22.305 Contract clause.

Insert the clause at 52.222-4, Contract Work Hours and Safety Standards Act—Overtime Compensation, in solicitations and contracts (including, for this purpose, basic ordering agreements) when the contract may require or involve the employment of laborers or mechanics. However, do not include the clause in solicitations and contracts—

(a) Valued at or below the simplified acquisition threshold;

(b) For commercial items;

(c) For transportation or the transmission of intelligence;

(d) To be performed outside the United States, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331) (29 CFR 5.15);

(e) For work to be done solely in accordance with the Walsh-Healey Public Contracts Act (see subpart 22.6);

(f) For supplies that include incidental services that do not require substantial employment of laborers or mechanics; or

(g) Exempt under regulations of the Secretary of Labor (29 CFR 5.15).

[68 FR 28082, May 22, 2003]

Subpart 22.4—Labor Standards for Contracts Involving Construction

SOURCE: 53 FR 4935, Feb. 18, 1988, unless otherwise noted.

22.400 Scope of subpart.

This subpart implements the statutes which prescribe labor standards requirements for contracts in excess of \$2,000 for construction, alteration, or repair, including painting and decorating, of public buildings and public works. (See definition of *Construction, alteration, or repair* in section 22.401.) Labor relations requirements prescribed in other subparts of part 22 may also apply.

[53 FR 4935, Feb. 18, 1988; 65 FR 46074, July 26, 2000]

22.401 Definitions.

As used in this subpart—

Apprentice means a person—

(1) Employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS), or with a State Apprenticeship Agency recognized by OATELS; or

(2) Who is in the first 90 days of probationary employment as an apprentice in an apprenticeship program, and is not individually registered in the program, but who has been certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

Building or work means construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways,